

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WINN-DIXIE STORES, INC., et al.

v.

**EASTERN MUSHROOM MARKETING
COOPERATIVE, et al.**

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CIVIL ACTION

No. 15-6480

ORDER

AND NOW, this 8th day of **April 2019**, upon consideration of Defendants' motions to dismiss the Amended Complaint of Plaintiffs Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC ("Winn-Dixie Plaintiffs"),¹ Plaintiffs' response, and for the reasons stated in the Court's memorandum dated April 8, 2019, it is **ORDERED** that the motions (Document Nos. 98, 99, 101, and 102) are **GRANTED in part** and **DENIED in part** as follows:

1. Defendants' motions are **GRANTED** to the extent that they seek to dismiss Winn-Dixie Plaintiffs' claims under Section 2 of the Sherman Act against all Defendants other than Defendant EMMC;
2. Defendants' motions are **GRANTED** to the extent that they seek to dismiss Winn-Dixie Plaintiffs' claims for antitrust violations extending beyond December 31,

¹ The following Defendants have filed motions to dismiss: (1) M.D. Basciani & Sons, Inc. (Dkt. No. 98); (2) Eastern Mushroom Marketing Cooperative, Inc., Robert A. Feranto, Jr. t/a Bella Mushroom Farms, Brownstone Mushroom Farms, Inc., Country Fresh Mushroom Co., Forest Mushroom, Inc., Gaspari Bros., Inc., Gino Gaspari & Sons, Inc., Kaolin Mushroom Farms, Inc., South Mill Mushroom Sales, Inc., Louis M Marson, Jr., Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Sher-Rockee Mushroom Farm, LLC, C&C Carriage Mushroom Co., Oakshire Mushroom Farm, Inc., Phillips Mushroom Farms, Inc., To-Jo Fresh Mushrooms, Inc., Michael Pia, and John Pia (Dkt. No. 99); (3) Creekside Mushrooms, Ltd. (Dkt. No. 101); and (4) Giorgi Mushroom Co. and Giorgio Foods, Inc. (Dkt. No. 102). J-M Farms, Inc. (Dkt. No. 100), Mushroom Alliance, Inc. (Dkt. No. 103), and Cardile Mushrooms, Inc. (Dkt. No. 104) join in Certain Defendants' motion to dismiss. Cardile also joins in the Creekside and Giorgi motions. Creekside joins in the motions of Certain Defendants and the Giorgi Defendants.

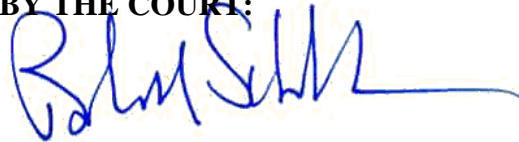
2008; and

3. Defendants' motions are **DENIED** in all other respects.

It is **FURTHER ORDERED** that Winn-Dixie Plaintiffs' claims against the following Defendants are **DISMISSED** without prejudice for failure to serve pursuant to Rule 4(m) of the Federal Rules of Civil Procedure: 1) Cardile Brothers Mushroom Packaging, Inc; 2) Harvest Fresh Farms, Inc.; 3) LRP-M Mushrooms, LLC; 4) LRP Mushrooms, Inc.; 5) Masha & Toto, Inc. t/a M&T Mushroom; 6) United Mushroom Farms Cooperative; and 7) W&P Mushrooms, Inc.

All remaining Defendants shall file an Answer to the Amended Complaint on or before **Friday, July 12, 2019**.

BY THE COURT:



Berle M. Schiller, J.